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PROVISIONS OF THE FOOD ACT AND ACTIVITIES WHICH SHOULD BE MADE PERMANENT—DISCUSSION

RAY B. WESTERFIELD.—I am much impressed with the moderate nature of Professor Gephart's proposals. His proposals are far from radical; in fact, the trade would largely regard them as minor details of reform. He does not advocate the retention of the Food Administration as such, but would have certain of his proposed measures exercised by the Interstate Commerce Commission, the Federal Trade Commission, the Bureau of Markets, and the Department of Agriculture. He does not favor retaining the Grain Corporation, nor the zoning system, and his proposals for price fixing lack emphasis and definiteness. He seems thoroughly alive to the fact that conditions of distribution are *in time of war* so very abnormal as not to constitute a sound basis of argument for continuing *in time of peace* such institutions and methods as may have proven useful or indispensable during war. However, there is no denying that the Food and Fuel Administrations have been most interesting and important experiments in economics, have indicated many defects of our distributing system, and have engaged in many remedial activities.

One of the dominating principles governing their activities has been to make maximum use of the existing machinery of distribution, in so far as it could facilitate the ends in view. They did not attempt to create a new system of distribution, but sought rather to correct certain evident defects or abuses in the old system; they befriended the trade and sought its coöperation, but worked as constructive critic and reformer. The reforms of the Food Administration which Professor Gephart would continue were largely the extension, in degree or scope, of improved marketing ideas (1) which had been tried and were being used by some advanced distributors (e.g., standardization and inspection), or (2) which distributors aspired to use but were forbidden by anti-trust or other legislation (e.g., price-fixing agreements), or (3) for which the federal government and certain states had legislated and enforced their laws, with varying degrees of thoroughness (e.g., cold storage, unfair competition, and speculative exchanges).

I agree quite fully with Professor Gephart in his indictment of the system of marketing perishable produce, but I am not so sympathetic with his proposals for uninvited government interference as the vehicle of reform. Grading and standardization are obviously the fundamentals of marketing reform; they are so recognized by the trade, and during recent years the trade associations and speculative ex-

changes have gradually extended the grading and standardizing of produce and sought uniformity. Certain producers, also, mainly through coöperative marketing associations, have established well-recognized grades and standards for their products. Certain states have passed laws standardizing barrels, crates, etc. Professor Gephart's proposal to extend the standardization of both container and contents and make them uniform for both intrastate and interstate commerce is therefore in line with present tendencies. The real question at hand is whether federal legislation should be adopted to hasten the process or whether it should be left to the slow but sure and natural development as worked out by the trade itself. I am of the opinion that the trade should develop it, or at least that the initiative and demand for reform should spring from the trade.

The same may be said about the proposal to have the produce inspected at the consignor's and at the consignee's, with penalties for rejecting produce that conforms to contract or for shipping produce that does not conform to contract. The large shipping associations have perfected a system of stringent inspection at point of shipment and have representatives at the markets to see whether or not the produce on arrival is off-quality and to enforce the keeping of contracts by boycott or judicial action. It is, I believe, generally recognized, by the unorganized as well as the organized, that the most fit and expedient way for producers, at least the small ones, to market is through coöperative organizations; as fast as this ideal is attained, does the proposed two-end compulsory system of government inspection become unnecessary.

The proposed two-end system of government inspection would undoubtedly teach produce dealers the sacred quality of contracts, in a way unfelt before. But here, I believe, The Food Administration is "straining at a gnat": the violated contracts constitute an extremely small fraction of the total produce sales; a high per cent of the trade is strictly honorable and abides strictly by their contractual obligations; a high per cent of the produce moves from shipper through consignee without hitch or dispute. It is unfortunate that the small remaining per cent is given undue publicity and importance. Besides, the evils of the "rejects" system are being corrected by the organization of the shippers, by the associations within the produce trade, by the editorial efforts of certain produce trade and by competition within the trade.

Many objections to the proposed system may be foreseen: (1) Some lines of produce practically defy standardization, and could be handled

only on a commission basis; also not all producers would have large enough supplies to grade, and these would go through on commission basis; the system, in other words, could not be made universal. (2) The inspection at the consignor's point might be "easy" and at the consignee's point "rigid." This would lead to disputes and the consignor claim he was systematically robbed; local pressure at the two points would tend to result in just such easy and rigid inspection; the grades would have to be drawn with great exactness and the inspections at the two points closely correlated; besides, the produce might shrink or vary in transit; the consignee, fearing the inspection would work to his disadvantage, might resort to the commission method instead—and this is an undesirable reversion of present tendencies, by which the jobbing method is supplanting the commission method in most markets. (3) It may prove impossible or inadvisable to establish uniform grades; there are local variations and annual variations; and it would be impossible for inspectors to be versed in all; in the case of the present coöperative associations it is different, for the market representative knows well the produce he is to inspect. (4) The provision of inspectors at all points of production would be obviously impossible; any approach to it would be very expensive; but it is usually the small and scattered shippers who are at the greatest disadvantage and need most the defense of the proposed inspection.

The proposal that the "demurrage regulations should be more stringent in order to put a stop to the pernicious practice of using railway equipment as storagehouses," should be qualified. The proposal probably means the fixing by law of higher horizontal demurrage rates, which would prove prohibitive to the use of cars, freight warehouses, or docks for storage purposes, or else the enactment of some shorter maximum period for unloading. The question here is largely, who should provide the capital to handle the occasional seasonable excessive supplies of produce at the market—the railroads, or the trade. If the trade builds storage facilities for the maximum supply, during most of the year they will in part stand idle; on the other hand, if the railroad builds cars sufficient to handle the maximum supply, during most of the year some of them must stand idle. It seems to me the demurrage plan should be elastic. The necessity for driving cars to their maximum utilization is occasional; the Food Administration contended with such occasion last winter. But during the larger part of the year this necessity does not exist, and the efficiency of the trade may be promoted by an elastic demurrage plan whereby cars when not needed greatly by the roads may be utilized for storage by the

trade. The railroads, by pooling their cars and renting cars from other companies, can give some elasticity; but the possibility of imposing high demurrage limitations should be conferred upon the railroads and terminal authorities, in case there should arise a great dearth of cars or a serious congestion of terminals. This local and seasonable adaptation is more logical than horizontal, universal, decidedly severe regulations.

Professor Gephart believes that "it might be possible, through a system of license regulations established by law and entrusted to the Federal Trade Commission, to effect some permanent, desirable reforms in controlling unnecessary resales," "with a view of preventing the pyramiding of profits and consequently the enhancing of prices to consumers." This proposal rests on what seems to me a premise unwarranted by facts. A priori, pyramiding of profits cannot permanently exist in a trade which is highly competitive, as is the produce business. Certain experts of the trade whom I have consulted tell me that although occasional instances of pyramiding exist, they are from necessity but temporary. Under the Food Administration it was necessary to limit the number of resales, for it fixed maximum margins for successive handlers and fixed the price to the consumer equal to the sum of original cost plus these margins; in other words, it provided for exact pyramiding of profits if the market was strong enough to support the price. Hence, the Food Administration divided the trade into three or four classes and forbade resales within each class, with certain exceptions: resales between dealers of the same class but living in different cities were less restricted, and one or two bona fide resales between dealers of the same class were allowed where it was reasonably necessary. In actual practice produce is seldom resold more than two times within the same class at any time, and the restriction was largely nominal in effect. But to the degree it did interfere, it had little warrant for existence and was detrimental. It is wide of the fact to suppose that producers scattered over the country know at the time they consign their produce to a market that that market and consignee are in the most direct line to the ultimate consumer, or to suppose that the wholesale receiver or jobber has such knowledge of his customers' wants as to buy just enough, no more, no less, and just the quality, to satisfy them. Resales within the trade are altogether logical and economical, and, as I see it, the proper parties to decide this matter are the dealers who buy from those shippers and sell to those customers and who live by serving both well, rather than some outside organized interference that is trying to

shove the trade into a strait-jacket. I am opposed to any limitation by law or regulation on the number of resales, for I do not believe pyramiding of profits exists, nor do I believe that the more direct movement of produce from producer to consumer is necessarily the more economical.

H. R. TOSDAL.—I am in essential agreement with Professor Gephart's paper, especially with regard to the necessity for securing adequate grading and inspection facilities, but his fifth conclusion, relative to the need of a new Fair Trade act, is of particular interest.

We are constantly experiencing the difficulty of defining what does and what does not constitute fair trade; and, in this connection, one of the most perplexing problems is that concerning price cutting. There has been much agitation with respect to price cutting upon identified goods, but price cutting is also important with unidentified goods (unbranded goods) which are not affected by acts which have been presented to Congress. Of course, perishable products, semi-manufactured articles, fully-manufactured articles, or combinations of commodities sold under competitive contract—such as in the building trades—are affected by a species of price cutting which results in instability of the market, losses of contractors, temptation to deterioration of quality, and eventually in a larger spread between producer's price and consumer's price.

The remedy for such price cutting in unbranded goods as is undesirable is not price maintenance. The policy of price maintenance may be applied only to identified goods and is generally unsound even when so applied. The remedy lies in a definition by law of malicious price cutting and an extension of market knowledge among producers, middlemen, and consumers. Much harmful price cutting is not malicious—merely ignorant—and the extension of market knowledge advocated by Professor Gephart is certainly in line with sound progress.

For products which are sold in great volume throughout the country it may be feasible to have government systems of inspection and grading, of collecting and disseminating market information. Obviously such a plan is not workable in most lines of manufactured goods, because it would require an unwieldy organization.

It is here that coöperation among competitors can be practical and effective. Professor Gephart has mentioned the willingness of groups of dealers and producers to coöperate with the Food Administration. It seems to me that one of the permanent intangible influences of the war will be the development of greater coöperation among business men along practical lines, and undoubtedly the work of the Food Adminis-

tration in the accepted channels of trade will have permanent results in this direction. With adequate definition of fair and unfair trade practice, with an increase of market knowledge so that facts instead of rumors govern transactions, and with coöperation where coöperation is beneficial, greater stability of markets will be secured and smaller margins will be necessary in order to give fair compensation to the factors involved.

E. G. NOURSE.—While I find myself in hearty agreement with many of the things which are contained in Professor Westerfield's paper, I must confess that the question of "rejections" and the work of the Food Administration in that connection appear to me in quite a different light from that in which he views it. It may be true, as he suggests, that in actual amount not over one per cent of the total volume of trade is involved in this question. It would be my own feeling that that guess is somewhat too low, but, even conceding that one per cent is the true figure, the matter still is one which is important out of all proportion to its absolute amount. In several years of study of the marketing of perishables I have found this to be one of the most serious abuses, one which the members of the trade themselves have recognized as a serious demoralizing factor in their business, and from which they have in recent years been striving to free themselves through the action of various trade associations, the organization of local market sentiment, and the like. However, they were unable to do this unaided, but when the Food Administration took hold of the problem substantial progress was made toward its solution. In many quarters, members of the trade are quite frank to confess that they had tried in vain to effect this needed reform from within, and were glad when a strong outside agency introduced the element of authority necessary to get control of, and in large measure to eliminate, the bad practice. It may be that this ground once won will be held without further aid from outside the private market organization, although personally I feel that it is rather unfortunate that the regulations of the Food Administration in this direction are being relaxed so soon. At all events, we should give the Food Administration credit for having seen promptly and taken hold courageously of one of the most serious problems of the perishable food trade, and for having set in motion just and effective measures toward remedying the condition.

Furthermore, I do not feel so great a confidence as does Professor Westerfield in the power of coöperative organization to cover fully the demand for market inspection and to remove the need for governmental

agencies in the performing of this function. Great as is the work done by coöperative associations of growers toward the standardization of their products, and in spite of their probable expansion in the future, there is still and will continue to be a large field for government inspection. Even in the case of those goods which are shipped by growers' coöperative organizations (and a large proportion are not), I am by no means certain that we shall see universally such large-scale federation of local growers' associations as would make terminal market inspection by their own agents feasible. And, even where such large organizations are possible, there will still be disputes which need to be referred to some impartial and expert agency which has no commercial connection with either shipper or receiver.

All this involves questions too large to go into here. But it is my opinion that, in adjudicating rejection disputes on the basis of official terminal inspection, the Food Administration has helpfully extended a line of work already well begun by the federal Bureau of Markets. It seems to me pretty certain that we shall need permanently in our market organization a government inspection service, available on request of either shipper or receiver. This is a logical complement of the government regulation of weights, measures, grades, and containers; and these together include a field of activity which cannot safely be left to private agencies of control any more than can the regulation of money and banking.

L. C. GRAY.—I am in entire agreement with Professor Gephart's conclusions that the Food Administration has developed a number of policies which should be incorporated permanently in our system of marketing. However, I do not believe that the system of forbidding resales within the trade is one of the policies that should be continued. As I understand this policy, it was developed as a necessary supplement to the policy of regulating dealers' margins. If margins are definitely fixed, it is obviously necessary to prevent the evasion of the regulation by making resales among the same grade of middlemen. That the policy was essentially supplementary in nature is indicated by the number of exceptions which the Administration found it necessary to make. In fact, the Food Administration recognizes five cases in which resales will be allowed. The nature of these cases indicates the impracticability of imposing the policy of prohibiting resales except as a policy supplementary to the regulation in margins. It is my belief that competition will prevent resales from becoming regularly an additional charge on the industry except where resale involves a

regular marketing function that it is impossible for competition to eliminate.

GUY C. SMITH.—Dr. Carver has asked the question whether the Food Administration officials have made use of the inspection service of the United States Bureau of Markets. In reply, I would say, so far as Connecticut is concerned, the Federal Food Administration has made quite extensive use of that service in the markets of that state. Dr. Westerfield has stated that government inspection does not appear to him to be especially desirable because he thinks that not more than 1 per cent of the produce shipments are rejected by the receiver. Admitting that this percentage figure is correct, it, nevertheless, has a significance out of all proportion to that which would be indicated by its size, because the knowledge that even a small number of rejections are made does have a widespread effect upon shippers. Dr. Westerfield further states that with the development of coöperative associations the inspection service very properly could and should be furnished by them. The fact of the matter is, however, that at the present time only a representatively small percentage of the produce of the United States is sold through coöperative associations, and it will be a long time before that situation is materially changed. Therefore, to rely on an inspection service established by coöperative associations would simply be to delay that work for a great many years. It is the small individual shipper who most needs the protection of an inspection service, and the large percentage of producers in the United States fall in this class. It therefore seems to me that it is a very proper and valuable function which can be performed by the Bureau of Markets along this line.

PAUL D. CONVERSE.—Speculation in foods prior to November, 1917, was much more prevalent than many of us believed. The regulations of the Food Administration concerning speculation seem to have been well observed. Wholesalers and brokers in the New York market state that speculative buying and selling in that market was almost entirely stopped by the rules of the Food Administration. Dealers in certain lines whose business was largely speculative have been almost idle, while firms whose business was only partly speculative have had their operations greatly reduced. The effect of the Food Administration's rules was to stabilize prices and retard further advances during this critical period.